

AN ORDINANCE TO ADD ARTICLE XXV (A) COMMITMENTS; ENFORCEMENT TO THE COMPREHENSIVE ZONING ORDINANCE IN EFFECT FOR WARRICK COUNTY, INDIANA

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WARRICK COUNTY, INDIANA, as follows to wit:

Section 1. That Article XXV (A) Commitments; Enforcement be added to the Comprehensive Zoning Ordinance to read as follows:

ARTICLE XXV (A) COMMITMENTS; ENFORCEMENT

1. (a) As a condition to the:

- (1) Adoption of rezoning proposal;
- (2) Primary approval of a proposed subdivision plat or development plan;
- (3) Approval of a vacation of all or part of the plat; or
- (4) Approval of an application for a:
 - (a) special use;
 - (b) variance

the owner of a parcel of real property may be required or allowed to make a commitment to the commission or board of zoning appeals; as applicable, concerning the use or development of that parcel.

(b) Commitments are subject to the following provisions:

- (1) A commitment must be in writing.
- (2) Unless the written commitment is modified or terminated in accordance with this subsection, a written commitment is binding on the owner of the parcel.

(3) A commitment shall be recorded in the office of the county recorder. After a commitment is recorded, it is binding on a subsequent owner or any other person who acquires an interest in the parcel. However, a commitment is binding on the owner who makes the commitment even if the commitment is unrecorded. An unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.

(4) A commitment may contain terms providing for its own expiration. A commitment may also contain terms providing that the commitment automatically terminates:

- (a) If the zoning district or classification applicable to the parcel is changed;
- (b) if the land use to which the commitment relates is changed; or
- (c) otherwise in accordance with the rules of the commission or board of zoning appeals to which the commitment is made.

(5) Except for a commitment that expires or automatically terminates under subsection (4), a commitment may be modified or terminated only by a decision of the commission or board of zoning appeals to which the commitment was made. The decision must be made at a public hearing after notice of the hearing has been provided under the rules of the commission or board of zoning appeals, as the case may be.

(6) During the time a rezoning proposal is being considered by the legislative body containing a use and development commitment, the owner may make a new commitment to

the plan commission or modify the terms of a commitment that was made when the proposal was being considered by the commission.

(7) No further action of the commission is required under subsection (6):

(8) If a commitment is modified under subsection (6):

(a) no further action is required by the commission for the commitment to be effective if the effect of the modification is to make the commitment more stringent; or

(b) the modified commitment must be ratified by the commission if the effect of the modification is to make the commitment less stringent.

(9) Requiring or allowing a commitment to be made does not obligate the commission, board of zoning appeals, or legislative body, as applicable, to adopt, approve, or favorably recommend the proposal or application to which the commitment relates.

(10) the following types of conditions are not considered commitments:

(a) a condition imposed on primary plat approval that must be met prior to secondary approval of the plat

(b) a condition imposed upon an approval of a special use or variance or development plan prior to an improvement location permit being issued

Section 2. This Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners for Warrick County, State of Indiana.

Approved this 10th day of June, 2013.

Don Williams

Don Williams, President

Marlin Weisheit

Marlin Weisheit, Member

Richard Reid

Richard Reid, Member

ATTEST:

Allen Janna, First Deputy Auditor

L.B. Dugan, Auditor

Public Hearing held by Area Plan Commission May 13, 2013